

1 HON. JAMES P. DONOHUE

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 IMPULSE MEDIA GROUP, INC.,

14 a Washington corporation,

15 Defendant.
16

No. CV05 1285 L

[PROPOSED]
ORDER DENYING PLAINTIFF'S REQUEST
REGARDING ATTENDANCE AT THE COURT
ORDERED SETTLEMENT CONFERENCE

17 This matter having come on regularly before the above-captioned court on Plaintiff's
18 Request Regarding Attendance at the Court Ordered Settlement Conference and Defendant's
19 motions contained in Defendant's Response in Opposition, the court having read the argument of
20 counsel and being fully advised in the premises, and the court having considered the following
21 pleadings and documents:

22 1. United States' Request Regarding Attendance at the Court Ordered Settlement
23 Conference;

24 2. Defendant's Response in Opposition to United States' Request Regarding
25 Attendance at the Court Ordered Settlement Conference;

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3. Declaration of Robert Apgood in Support of Defendant's Response in Opposition to United States' Request Regarding Attendance at the Court Ordered Settlement Conference, and the exhibits thereto;

4. [Plaintiff's Reply to Defendant's Response in Opposition;]

5. The file and pleadings in this case; and

6. _____

IT IS HEREBY ORDERED that Plaintiff's Request is DENIED.

Defendant's Objection No. 1 contained in Defendant's Opposition is hereby SUSTAINED, Defendant's motion is GRANTED and it is HEREBY ORDERED that Plaintiff's Request is

☐ deemed untimely and is STRICKEN

☐ re-noted to October 26, 2007

for failure to comply with Local Rule LR 7(d)(3). Plaintiff's improper noting date for its Request placed a wholly unreasonable and oppressive deadline on Defendant to respond to Plaintiff's Request in order for Defendant to comply with Local Rule LR 7(d)(3), thereby prejudicing the Defendant by requiring its counsel to suspend all activity on preparation of briefing ordered by this Court. Plaintiff had more than sufficient opportunity in which to present its Request to this Court during the conference call mandated by Local Rule LR 39.1(c)(4), as well as during more than two (2) weeks subsequent to the entry of the Order designating this Court as the mediator. This,

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1 Plaintiff did not do. For these reasons, it is HEREBY ORDERED that Defendant's counsel shall
2 submit a Bill of Costs for consideration by this Court and for the awarding of a judgment thereon.

3 Defendant's Objection No. 2 contained in Defendant's Opposition is hereby SUSTAINED
4 and Defendant's motion is GRANTED. Plaintiff's Request and related activities are not in
5 compliance with Local Rule LR 39.1 and it is HEREBY ORDERED that Plaintiff's Request is
6 therefore STRICKEN. Local Rule LR 39.1(c)(4) *requires* that "the plaintiff shall arrange a
7 conference call among the mediator and counsel for each party to discuss procedural aspects of the
8 mediation." This, Plaintiff failed to do. Had Plaintiff complied with LR 39.1(c)(4), it could have
9 raised as an issue the substance of this motion, received a ruling by the Court, and thereby avoided
10 requiring Defendant to suffer the expense and necessity of responding to this motion. Rather,
11 Plaintiff filed this formal motion without first utilizing the conference provision of Local Rule LR
12 39.1(c)(4). Plaintiff's failure to comply with Local Rule LR 39.1(c)(4) and the subsequent filing of
13 this formal motion has required the Defendant to suffer unnecessary expenses and inconvenience in
14 responding to this motion. Such unnecessary motions do not promote judicial economy and are an
15 unnecessary drain on the court's resources. As such, Plaintiff is HEREBY ORDERED to comply
16 with Local Rule LR 39.1(c)(4) by arranging a conference call among the mediator and counsel for
17 each party to discuss procedural aspects as may be unresolved at this time as required by that rule.
18 For these reasons, it is HEREBY ORDERED that Defendant's counsel shall submit a Bill of Costs
19 for consideration by this Court and for the awarding of a judgment thereon.

20 Defendant's Objection No. 3 contained in Defendant's Opposition is hereby SUSTAINED
21 and Defendant's motion is HEREBY GRANTED. It is HEREBY ORDERED that Plaintiff's
22 Request is held by this Court to be a motion for excusing a Plaintiff representative having full
23 authority to bind the Plaintiff in a settlement agreement shall be in attendance at the mediation
24 conference to be held on October 25, 2007 before this Court. The Court finds no order in the docket
25 for either a "Court Ordered Settlement Conference" or a "Settlement Conference Order."

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1 To the extent that no prior provision or holding in this matter so provides, Plaintiff's
2 Request is HEREBY DENIED.

3 Defendant's Counsel is HEREBY ORDERED to submit a Bill of Costs, including attorney's
4 fees, to this Court for consideration and an award thereon.

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6 DONE IN OPEN COURT this _____ day of October 2007.

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UNITED STATES MAGISTRATE JUDGE

10 Presented by:
11 CARPELAW PLLC

12 By: /s/ Robert S. Apgood
13 Robert S. Apgood
14 Attorney for Defendant Impulse Media Group
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